

April 19, 2010

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
MODESTO DIVISION

In re	)	Case No. 07-90770-D-7
BELLA VISTA BY PARAMONT, LLC	)	DC No.:
Debtor,	)	CHAPTER 7
_____	)	Adv. Proc. No.: 08-09107-D
GARY FARRAR, CHAPTER 7	)	PLAINTIFF'S PROPOSED FINDINGS
TRUSTEE	)	OF FACT AND CONCLUSIONS OF
Plaintiff,	)	LAW
vs.	)	Date: April 26, 2010
WARDA & YONANO, a Limited	)	Time: 9:30 a.m.
Liability Partnership, J.C. WILLIAMS	)	Place: 1200 I Street, Suite 4
COMPANY, a California Corporation,	)	Modesto, CA 95354
JCW-CYPRESS HOME GROUP, a	)	Courtroom 33
California Limited Partnership, JOHN C.	)	Judge: Hon. Ronald H. Sargis
WILLIAMS, an individual,)	
Defendants.)	

FINDINGS OF FACT

1. Plaintiff Gary Farrar is the duly qualified and acting Chapter 7 trustee in this case.
2. Bella Vista by Paramont, LLC is a California limited liability company ("Debtor").
3. Defendant WARDA & YONANO is a California Limited Liability Partnership ("W&Y").

1 4. Defendant Defendants J.C. WILLIAMS COMPANY is a California Corporation
2 ("Williams Company").

3 5. Defendant JCW-CYPRESS HOME GROUP is a California Limited Partnership
4 ("Cypress").

5 6. Defendant JOHN C. WILLIAMS is an individual residing in the State of California
6 ("Williams").

7 7. At all times herein, Defendant W&Y was, and continues to be, the attorneys for
8 Debtor, Williams Company, Cypress, and Williams. (Defendants W&Y, Williams Company,
9 Cypress, and Williams are collectively referred to herein as "Defendants")

10 8. On or about November 29, 2006, Defendant W&Y received cashier's check no.
11 001909302 in the amount of \$100,000 payable to Debtor in settlement of a prepetition civil
12 proceeding (the "Check").

13 9. The Check was deposited into the Client Trust Account of Defendant W&Y's Client
14 Trust Account ("the Deposit").

15 10. The Check was received and the deposit was made within one year from the Debtor's
16 bankruptcy Petition.

17 11. The proceeds of the Check were controlled by Williams and Williams directed that
18 W&Y pay itself on various invoices from the Deposit.

19 12. Williams is an officer, director, and person in control of Debtor, Williams Company,
20 and Cypress.

21 13. At the time of the Deposit, Debtor owed Cypress an amount in excess of the amount
22 of the Deposit.

23 14. All of the proceeds from the Check were subsequently used to pay Defendant W&Y
24 attorneys' fees (hereinafter "Transfers").

25 15. All of the proceeds from the Check were subsequently used to pay Defendant W&Y
26 attorneys' fees incurred by Debtor, Williams Company, Cypress, and Williams.

27 16. Defendant W&Y was a creditor of the Debtor at the time of the Transfers.

28 17. Defendant Cypress was a creditor of the Debtor at the time of the Transfers.

1 18. Each Transfer was a transfer of an interest in property of the Debtor.

2 19. All of the Transfers were made for or on account of the antecedent debt owed by the
3 Debtor to Defendant Cypress and Defendant W&Y.

4 20. Debtor was insolvent at the time of the Deposit and the Transfers.

5 21. At least \$16,000 of the Transfers was made on or within ninety days before the
6 Petition Date.

7 22. The Transfers enabled Defendants W&Y and Cypress to receive more than they
8 would receive if the Transfers had not been made and were instead paid to the extent provided by
9 provisions of Title 11, of the United States Code.

10 23. Defendant W&Y was the initial transferee, or alternatively, the immediate or mediate
11 transferee of the proceeds from the Check as described in 11 U.S.C. §550(a)(1) and (2).

12 24. Defendant Williams Company was the initial transferee, or alternatively, the
13 immediate or mediate transferee of the proceeds from the Check as described in 11 U.S.C.
14 §550(a)(1) and (2).

15 25. Defendant Cypress was the initial transferee, or alternatively, the immediate or
16 mediate transferee of the proceeds from the Check as described in 11 U.S.C. §550(a)(1) and (2).

17 26. Defendant Williams was the initial transferee, or alternatively, the immediate or
18 mediate transferee of the proceeds from the Check as described in 11 U.S.C. §550(a)(1) and (2).

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20 **CONCLUSIONS OF LAW**

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22 27. This court has jurisdiction over this adversary proceeding, which is a core proceeding
23 in bankruptcy. 28 U.S.C. § 157(b)(2)(I).

24 28. Plaintiff has met the elements of 11 U.S.C. § 547.

25 29. The \$100,000 Transfer was to or for the benefit of a creditor (i.e. Defendants), for or
26 on account of an antecedent debt before the transfer was made, and made within one year before the
27 filing of the Debtor's petition. Each of the Defendants was, at the time of the Transfer, an "insider"
28 pursuant to 11 U.S.C. § 101 (31).

1 30. The Debtor was insolvent at all times from July 30, 2006 to July 30, 2007.

2 31. The Transfer meets the requirements of 11 U.S.C. § 547(b)(5) in that it enabled each
3 of the Defendants to receive more than they would have received through a Chapter 7 liquidation of
4 Debtor's estate.

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6 Dated: April 19, 2010

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9 By: 
10 CLIFFORD W. STEVENS
Attorneys for Plaintiff/Chapter 7 Trustee
GARY FARRAR